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Who Will Own the Moon? The Need for an Answer

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WHO WILL OWN THE MOON? THE NEED FOR AN ANSWER†

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CAN the first nation to land men on the moon claim rights of possession and exclusive sovereignty over occupied areas which would give that nation political and perhaps military advantages?

Both the Soviet Union and the United States have disavowed any such intention. But the legal picture is not nearly as clear as it might be.

Long before any sane man thought seriously of the question of territorial rights on celestial bodies it was an accepted worldwide principle that the nation which effectively occupies an area of stateless lands may acquire rights of territorial sovereignty; indeed, this principle has been accepted as law by the community of nations.

Is there any rule of unwritten customary international law which would exempt the moon from this long established rule, or is there any special and effective political understanding to the same effect? In other words, have the Soviet Union, the United States, and other nations reached any formal, binding agreements by which they are obligated, one to another, to waive claims to national appropriation of areas on the moon following a manned landing and subsequent effective occupation? It should be said at once that the answer can be found, if at all, in the resolutions unanimously adopted in the 1961 and 1963 General Assemblies of the United Nations.

On 20 December 1961, the General Assembly unanimously adopted Resolution No. 1721 (XVI) entitled "International Cooperation in the Peaceful Uses of Outer Space." It stated:

> The General Assembly
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> *Recognizing* the common interest of mankind in furthering the peaceful uses of outer space and the urgent need to strengthen international cooperation in this important field,
>
> *Believing* that the exploration and use of outer space should be only for the betterment of mankind and to the benefit of States irrespective of the stage of their economic or scientific development,
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> 1. *Commends* to States for their guidance in the exploration and use of outer space the following principles:
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> (a) International law, including the Charter of the United Nations, applies to outer space and celestial bodies;

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(b) Outer space and celestial bodies are free for exploration and use by all States in conformity with international law and are not subject to national appropriation;

2. *Invites* the Committee on the Peaceful Uses of Outer Space to study and report on the legal problems which may arise from the exploration and use of outer space.

Two years later, on 13 December 1963, the General Assembly adopted Resolution No. 1962 (XVIII) entitled "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space." It stated in part:

The General Assembly . . .

Solemnly declares that in the exploration and use of outer space States should be guided by the following principles:

1. The exploration and use of outer space shall be carried on for the benefit and in the interests of all mankind.

2. Outer space and celestial bodies are free for exploration and use by all States on a basis of equality and in accordance with international law.

3. Outer space and celestial bodies are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

4. The activities of States in the exploration and use of outer space shall be carried on in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international cooperation and understanding.

If there is any formal agreement between the Member States of the United Nations obligating them not to seek national appropriation of areas on the moon, it must be found in these resolutions. No other public documents appear pertinent. There are no known agreements with non-member governments, such as Peking, though their future rocket possibility should not be overlooked.

Public statements made prior to the adoption of these two resolutions make it quite clear that there had been no agreement up to that time.

Three years before the 1961 resolution quoted above had been adopted, Senator Lyndon Johnson addressed the First Committee of the United Nations General Assembly on the need to ban national claims in space. While Chairman of the United States Senate Special Committee on Space and Astronautics he had been actively concerned with the drafting and final passage of the statute which created the present National Aeronautics and Space Administration. One of the objectives of that statute was to further "cooperation by the United States with other nations and groups of nations" in the work done pursuant to the act and in the peaceful application of its results. Later Congress requested the President to submit to the United Nations the question of international cooperation in dedicating outer space to peaceful purposes. In 1958 a resolution was introduced in the United Nations General Assembly to provide for the creation of an Ad Hoc Committee on the Peaceful Uses of Outer Space and Senator Johnson was invited to state the United States position. Speaking on 17

November 1958, before the First Committee of the General Assembly, he said in part:

> At this moment the nations of the Earth are explorers in space, not colonizers. . . . We of the United States have recognized and do recognize, as must all men, that the penetration into outer space is the concern of all mankind. All nations and all men, without regard to their roles on Earth, are affected alike by what is accomplished over their heads in outer space.
>
> If nations proceed unilaterally, then their penetrations into space become only extensions of their national policies on Earth . . . .
>
> Today outer space is free. It is unscarred by conflict. No nation holds a concession there. It must remain this way.
>
> We of the United States do not acknowledge that there are landlords of outer space who can presume to bargain with the nations of the Earth on the price of access to this new domain. We must not—and need not—corrupt this great opportunity by bringing to it the very antagonisms which we may, by courage, overcome and leave behind forever through a joint adventure into this new realm.[1]

The proposed Ad Hoc Committee was later created by resolution of the General Assembly. But the Soviet Union and certain other States which had been named to membership refused to cooperate in its work, asserting that the membership was unbalanced. However, a majority of that committee met and prepared a final report, dealing with many aspects of the use of outer space. In discussing the legal problems the report indicated that orbital flights already made may have "initiated the recognition or establishment of a generally accepted rule to the effect that in principle" outer space was on conditions of equality freely available for exploration and use by all. But the committee, apparently feeling the questions relating to exploration of celestial bodies created separate problems not covered by freedom of orbital flight, said:

> The Committee was of the view that serious problems could arise if States claimed, on one ground or another, exclusive rights over all or part of a celestial body. One suggestion was that celestial bodies are incapable of appropriation to national sovereignty. Another suggestion was that the exploration and exploitation of celestial bodies should be carried out exclusively for the benefit of all mankind. It was also suggested that some form of international administration over celestial bodies might be adopted.
>
> The Committee noted that, while scientific programmes envisaged relatively early exploration of celestial bodies, human settlement and extensive exploitation of resources were not likely in the near future. For this reason the Committee believed that problems relating to the settlement and exploitation of celestial bodies did not require priority treatment.[2]

This report was dated 14 July 1959. If there had at that time been any

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[1] SPECIAL SENATE COMM. ON SPACE AND ASTRONAUTICS, 85TH CONG., 2D SESS., SPACE LAW—A SYMPOSIUM 558-61 (Comm. Print 1959). See also S. REP. NO. 100, 86th Cong., 1st Sess. 58-62 (1959).

[2] Ad Hoc Comm. on the Peaceful Uses of Outer Space, *Report*, U.N. GEN. ASS., U. N. DOC. No. A/4141, paras. 30, 31 (1959). See also SENATE COMM. ON AERONAUTICAL AND SPACE SCIENCES, 87th CONG., 1st SESS., LEGAL PROBLEMS OF SPACE EXPLORATION 1246-75 (Comm. Print 1961).

accepted rule of international law holding that celestial bodies were not subject to occupation and territorial claims, the Committee would certainly have so stated.

In September 1959 the Soviet Union launched a rocket (Lunik II) which made impact with the moon. This followed by only two months the report of the Ad Hoc Committee. Fortunately, however, no international difficulties followed the landing of the Soviet rocket. Chairman Khrushchev is quoted as having denied any resulting claims to territorial rights.

The report of the Ad Hoc Committee was not acted upon by the General Assembly. Instead a new "Committee on the Peaceful Uses of Outer Space" was named. The problem of the effect of moon landings could no longer be set aside. President Eisenhower addressing the General Assembly in September 1960 urged adoption of an agreement that would declare celestial bodies not subject to national appropriation. He said:

> Another problem confronting us involves outer space. The emergence of this new world poses a vital issue: Will outer space be preserved for peaceful use and developed for the benefit of all mankind? Or will it become another focus for the arms race—and thus an area of dangerous and sterile competition? The choice is urgent. It is ours to make.
>
> The nations of the world have recently united in declaring the Continent of Antarctica 'off limits' to military preparations. We could extend this principle to an even more important sphere. National vested interests have not yet been developed in space or in celestial bodies. Barriers to agreement are now lower than they will ever be again.
>
> The opportunity may be fleeting. Before many years have passed, the point of no return may be behind us.
>
> We must not lose the chance we still have to control the future of outer space. I propose that—
>
> 1. We agree that celestial bodies are not subject to national appropriation by any claims of sovereignty.
> 2. We agree that the nations of the world shall not engage in warlike activities on these bodies. . . .
>
> Agreement on these proposals would enable future generations to find peaceful and scientific progress, not another fearful dimension to the arms race, as they explore the universe.[3]

Again it is obvious that no rule of law or international agreement then existed which would have forbidden national appropriation of celestial bodies, including the moon, or President Eisenhower would not have cited the need for such an agreement.

The following year the General Assembly adopted Resolution 1721, quoted above, which *commended* to states for their guidance the principle, among others, that celestial bodies are not subject to national appropriation. This appears to be the first positive reference in any United Nations

[3] LEGAL PROBLEMS OF SPACE EXPLORATION, *supra* note 2, at 1009. See also *International Cooperation and Organization for Outer Space*, S. Doc. No. 66, 89th Cong., 1st Sess. 195-96 (1965); 42 DEP'T STATE BULL. 554-55 (1960).

resolution to possible national appropriation of celestial bodies. But whether this resolution, even though unanimously adopted, can be accepted as legally binding on United Nations Member States will be discussed later.

In September 1963, only a few weeks before his death, President Kennedy delivered a stirring address before the General Assembly in which he sought to end the competitive race to the moon and substitute international cooperation. Politically he based his appeal on the assumption that problems of sovereignty no longer existed. He was patently referring to Resolution 1721. He said:

> Space offers no problems of sovereignty; by resolution of this Assembly, the Members of the United Nations have forsworn any claim to territorial rights in outer space or on celestial bodies, and declared that international law and the United Nations Charter will apply. Why, therefore, should man's first flight to the moon be a matter of national competition? Why should the United States and the Soviet Union, in preparation for such expeditions, become involved in immense duplications of research, construction and expenditure? Surely we should explore whether the scientists and astronauts of our two countries—indeed of all the world—cannot work together in the conquest of space, sending some day in this decade to the moon, not the representatives of a single nation, but the representatives of all of our countries.[4]

Was President Kennedy justified in taking the position that the 1961 resolution of the General Assembly was in substance an international agreement between Member States by which they bound themselves not to claim rights of territorial sovereignty following any manned landing on the moon? No sound answer to this question can be made without careful consideration of views expressed in the United Nations in connection with its later action on the 1963 resolution.

Following the adoption of the 1961 resolution referred to by President Kennedy, the United Nations Committee on the Peaceful Uses of Outer Space met to consider, as directed by the resolution, "the legal problems which may arise from the exploration and use of outer space." Proposals of basic principles were submitted by the Soviet Union, the United Arab Republic, the United Kingdom, and the United States. Agreement could not be reached. In December 1962 the General Assembly adopted Resolution 1802 (XVII), in which it noted with regret that the committee had not made recommendations on legal questions and it referred back to the committee the proposals which had been made. These proposals followed the spirit of the 1961 resolution but other areas of disagreement were so serious as to delay action. The legal sub-committee being unable to agree on positive recommendations, all of the proposals were brought before the First Committee of the General Assembly late in 1963. Various compromises were apparently reached before a draft resolution was finally prepared for consideration. This text was eventually incorporated in Resolution 1962 (XVIII) adopted 13 December 1963 and quoted above.

An examination of the 1961 and 1963 resolutions points up the fact

[4] *International Cooperation and Organization for Outer Space, supra* note 3, at 158. See also 48 DEP'T STATE BULL. 532-33 (1963).

that little change was made in the original provisions as to celestial bodies. Both resolutions seek to establish the principle that such bodies are not subject to "national appropriation." The 1963 resolution clarifies the meaning of the latter phrase by adding the words "by claim of sovereignty, by means of use or occupation, or by any other means."

Both resolutions assert the principle that celestial bodies are free for exploration and use by all states in accordance with international law. But the 1961 resolution merely commended these principles to states while the 1963 resolution "solemnly declares" that states should be guided by the principles set out in the resolution. Whether the use of the words "solemnly declares" and the designation of the resolution as a "declaration" in its title gives more force to the 1963 resolution than to the 1961 resolution is debatable in the judgment of the present author. The "declaration" was not formally signed by members of the United Nations in their capacity as sovereign states and can hardly be considered to be classed with those historic "declarations" under which parties have formally entered into undertakings as in a treaty between them.

The discussions which took place in the First Committee when the draft resolution was under consideration throw light on its international legal effect as well as on how it should be construed. The position of the United States was explained by the late Ambassador Adlai E. Stevenson in part as follows on 2 December 1963:

> In the view of the United States, the operative paragraphs of the draft resolution contained legal principles which the General Assembly, in adopting the resolution, would declare should guide States in the exploration and use of outer space. We believe these legal principles reflect international law as it is accepted by the Members of the United Nations. The United States, for its part, intends to respect these principles. We hope that the conduct which the resolution commends to nations in the exploration of outer space will become the practice of all nations.[5]

Earlier in the same statement Ambassador Stevenson had referred to the fact that the growth "of custom and usage must be present to provide the basis of sound law." Nowhere did he intimate that the proposed resolution created new and binding obligations which had not already been supported by international custom and conduct.

During the same session the Soviet representative stated:

> We still consider that the declaration of the principles governing the activities of States in the exploration and use of outer space must be an international document similar to a treaty, which would contain firm legal obligations on the part of States. This problem must, of course, be solved.[6]

This appears to be tantamount to a statement that the proposed resolution would create no legal obligations not already existing. He did add, however, later in his statement:

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[5] U. N. Doc. No. A/C.1/PV.1342, at 12 (1963).

[6] *Id.* at 41.

> Let it be said in passing that one should note the statement of the delegation of the United States of America to the effect that the United States considers that these legal principles reflect international law as it is accepted by the Members of the United Nations and that, on its part, the United States intends to respect the principles. The Soviet Union, for its part, will also respect the principles contained in this declaration if it is unanimously adopted.

The United Kingdom representative at the same meeting expressed his approval of the principles stated in the draft resolution as constituting "a significant contribution to the development of the law of outer space." He added: "My government intends to respect these principles and believes that the conduct they enjoin will become the practice of every State and thus serve to ensure the exploration and use of outer space for peaceful purposes."[7]

It should be noted that the Soviet representative specifically stated that a treaty or "similar document" was required. The United Kingdom representative believed that the principles would "become the practice of every State." This is quite different from a statement that the principles in the resolution were already part of international law or that the adoption of the resolution would create binding obligations.

The representative of France was more specific in denying that the proposed resolution would create of itself new and binding international legal obligations. He said:

> I will add, however, that, while supporting and subscribing to the principles contained in the declaration to which I have just referred, my delegation could not for the moment give this declaration more value than that of a declaration of intention. We do not, in fact, consider that a resolution of the General Assembly, even though adopted unanimously, can in this case create, *stricto sensu*, juridical obligations incumbent upon Member States. Such obligations can flow only from international agreements.[8]

The resolution was approved in the First Committee and later unanimously adopted in the General Assembly.

The United Nations is certainly not a world government. Its General Assembly does not have legislative powers which would permit it to amend national constitutions or statutes of Member States, or to create new and binding legal obligations on such States. The United Nations may, however, in the judgment of the present author, restate and clarify, by unanimously adopted resolutions, general international understanding as to what constitutes existing customary international law. When the late Ambassador Stevenson discussed the 1963 resolution which sought to ban national appropriation of celestial bodies, his major position was that the operative paragraphs of the draft resolution "reflect international law as it is accepted by the Member States of the United Nations." This was a factual statement. Nothing in the debates directly challenged the facts. Certainly his statement was well supported so far as flights in outer space were involved. But there had been no manned landings on celestial bodies.

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[7] *Id.* at 77.
[8] U. N. Doc. No. A/C.1/PV.1545, at 21 (1963).

The only fact supporting his statement as to celestial bodies was the landing of the Soviet Lunik II on the moon in 1959 followed by Soviet statements that territorial rights were not claimed. A distinguished Soviet expert on international law, the late Professor Y. Korovin, had written in 1962 as follows:

> The head of the Soviet Government, N. S. Khrushchev, replying to questions put by American correspondents on whether the landing of a Soviet pennant on the moon gave the Soviet Union grounds for making any property claims on this planet, said: "We regard the launching of a space rocket and the delivery of our pennant to the moon as our achievement. And when we say 'our' we imply all the countries of the world, that is, we imply that it is also your achievement and the achievement of all people living on earth."
>
> In another statement Khrushchev said he had no doubt that U.S. engineers, scientists and workers engaged in space exploration would also send their pennant to the moon and "the Soviet pennant, as an old resident of the moon, will welcome your pennant, and they will live in peace and friendship."[9]

Whether this single landing on the moon of an unmanned rocket, not followed by occupation, could be considered as evidence of customary international law banning territorial claims, may well be open to question. But it seems to have been the sole factual background for Ambassador Stevenson's statement as it related to celestial bodies.

At least two able European experts have asserted that the 1961 and 1963 United Nations resolutions, and the manner of their unanimous acceptance, constitute a legal ban on seizures of areas on the moon. In a 1963 lecture, Professor Dr. Goedhuis of the Netherlands (Chairman of the Space Law Committee of the International Law Association), said in discussing the 1961 resolution:

> On the basis of statements of governments [and others] . . . the conclusion can be drawn that before the acceptance of the resolution a general conviction had been formed according to which, through the recognition of the principle of freedom of exploration and use both of outer space and celestial bodies, the interests of mankind were best served. The resolution did, therefore, do no more than confirm a common consent of mankind which had already been created before its adoption.[10]

In a note to his lecture, written after the 1963 resolution had been adopted, he referred to the claim that the resolution "would only represent a declaration of intent." Dr. Goedhuis asserted that the 1963 resolution reinforced the thesis that the principles of the 1961 resolution "formed part of general international law and as such are binding on all States. No States have made legal claims or taken legal positions inconsistent with those laid down in the resolution."

Dr. C. Wilfred Jenks, of Great Britain, who had served as Reporter on Space Law for the Institute of International Law, wrote, following the adoption of the 1963 resolution, that theoretical controversy as to the status of celestial bodies:

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[9] Korovin, *Peaceful Cooperation in Space*, International Affairs, June 1962, p. 61.

[10] Goedhuis, *Regimes of Air Space and Outer Space*, 2 RECUEIL DES COURS 295-97 (1963).

> has been superseded by unanimous endorsement by the General Assembly of the United Nations on two successive occasions of the principle that celestial bodies are free for exploration and use by all states in accordance with international law and are not subject to national appropriation. . . . No claims to sovereignty or any lesser national appropriation of any celestial body were asserted or recognized before the General Assembly acted in the matter. No one was or is constrained to recognize any such claim asserted unilaterally. The General Assembly by unanimous decision has recorded the collective refusal of the Members of the United Nations to recognize any such claim, and has thereby placed the celestial bodies beyond the possibility of national appropriation. In these circumstances the theoretical controversy now belongs to history.[11]

In the United States, the present author, among others, indicated his hope that the matter was indeed settled. Writing, just after the adoption of the 1963 resolution, he said:

> Academic questions may still exist as to whether this declaration [in the 1963 resolution] not being in treaty form is of itself legally binding on the U.N. Member States who voted in its favor. However, its practical effect is clear. As between those Member States now exploring outer space and those others which may soon be added, the non-territorial status of outer space and of celestial bodies has been accepted, together with an effective denial of any right to claim outer space sovereignty.

After referring to statements made by various delegations before the resolution was adopted, which have been quoted here earlier, he noted the fact that no State indicated that it would refuse to regulate its international conduct in the manner provided by the declaration, and concluded:

> For practical purposes, it can now be stated with great assurance that no member of the United Nations will hereafter seek to project its territorial sovereign claims into outer space. If a landing is made on the moon, no territorial rights will follow. Freedom of exploration and use of outer space and celestial bodies now seem assured.[12]

Unfortunately the situation has changed and freedom of use of celestial bodies seems no longer positively "assured." Statements made in the United Nations since the adjournment of the 1963 General Assembly have raised grave doubts as to the force to be given to the 1961 and 1963 resolutions.

The present difficulties have arisen from a later and little discussed resolution of the 1963 General Assembly. This *recommended* "that considerations should be given to incorporating in international agreement form, in the future as appropriate, legal principles governing the activities of States in the exploration and use of outer space," then *requested* the Committee on the Peaceful Uses of Outer Space to continue to study and report on legal problems governing the activities of states in the exploration and use of outer space, and in particular to arrange for the prompt preparation of draft international agreements on liability for damage caused by objects launched into outer space and on assistance to, and re-

[11] JENKS, SPACE LAW 171 (1965).

[12] Cooper, *Aerospace Law—Progress in the U.N.*, Astronautics and Aerospace Engineering, March 1964, p. 42. Reprinted in 110 CONG. REC. A3129 (daily ed. 10 June 1964).

turn of, astronauts and space vehicles, and to report to the next General Assembly as to the two latter agreements.[13]

This resolution was referred to the Legal Sub-Committee. As a result, statements were made by various national representatives which can neither be overlooked nor minimized. For example, the representative of Hungary said "the preparation of an international agreement embodying the principles set out in the Declaration was of primary importance, for the Declaration in the General Assembly Resolution No. 1962 (XVIII) was only a recommendation and therefore not binding."[14] The representative of the Soviet Union stated that the adoption of the Declaration was only a beginning and the next step "was to incorporate the principles of the Declaration in an international agreement or treaty whose provisions would be binding on all parties."[15] The representative of Italy, himself a distinguished expert on air and space law, said: "The Declaration was not, however, entirely satisfactory. It lacked the legal force of an international instrument and was weaker than the resolution adopted by the Sub-Committee in 1961 which had affirmed that all international law should apply to outer space."[16]

The representative of France restated the position of that government as indicated before the 1963 resolution was adopted. He said that the French position with regard to the law of outer space was that no such law yet existed. He continued:

> Existing international law did not necessarily apply to outer space without certain adaptations. In addition, the legal principles governing the use of outer space and celestial bodies had yet to be defined. It was for the Sub-Committee to give them precise formulation in draft agreements, for the principles would never become binding on States until they were embodied in international agreements accepted by States. The resolutions which had been adopted could not give rise to legal obligations for Member States; they had no binding force and were no more than declarations of intention. It was now for the Sub-Committee to prepare the legal instruments which would later become the law of outer space.[17]

When the Legal Sub-Committee met again, in November 1964, the representative of the Soviet Union restated his position that the 1963 resolution did not create legal obligations. He said:

> [T]he Declaration adopted by the General Assembly represented an important step forward, for it constituted the first legal text governing the activities of States in the utilization of outer space. The Soviet delegation regretted, however, that that Declaration was in the form of a General Assembly resolution which laid no legal obligation on the Governments of States Members of the United Nations. It also deplored the fact that, in spite of the efforts which the Soviet delegation, supported by certain other delegations, had made in that direction, it had not proved possible to work out a draft international agreement on legal principles. It was worth noting that one of

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[13] U. N. Resolution 1963 (XVIII), 13 Dec. 1963, U.N. Doc. No. A/5441, Supp. 1.
[14] U. N. Doc. No. A/C.105/C.2/SR.29-37, at 3 (1963).
[15] *Id.* at 10.
[16] *Id.* at 44.
[17] *Id.* at 46.

> the main tasks of the Sub-Committee was in fact to draft such an agreement. The Soviet delegation therefore hoped that the Governments represented on the Sub-Committee would make increased efforts to bring their points of view on that question into agreement, particularly as the Declaration of Legal Principles had enjoyed the unanimous support of the States Members of the United Nations.[18]

These responsible expressions of opinion by representatives of Member States of the United Nations must be given great weight in any determination as to whether the winner in the race to the moon is, in fact, now bound by existing law or international agreement to refrain from claiming territorial rights over any occupied areas. Admittedly, no draft agreement or treaty as to celestial bodies has yet been prepared.

For practical purposes these 1964 national statements seem to have reopened the old controversy. The Soviet Union has said that the General Assembly resolution as to outer space and celestial bodies "laid no legal obligation on the governments of States Members of the United Nations." If that be true, no obligation exists to acknowledge as true Ambassador Stevenson's position that the 1963 resolution reflected "international law as it is accepted by the members of the United Nations" even though the Soviet Union voted for the resolution. Nor does any obligation exist to recognize the resolution as creating binding rules of conduct.

Perhaps even more disturbing is the statement of France (a member of NATO) that the resolution had no binding force and is no more than a "declaration of intention." Certainly a declaration of intention, valid when made, could be repudiated on later occasion if political conditions changed.

As difficult as it may be at this time, still it would appear that a formal treaty may be the only final answer. This is what was done when the dangerous status of Antarctica demanded settlement. This is what was done to ban certain nuclear tests. True, treaties can be and have been broken. But at least a formal treaty would state unequivocally the rights and obligations of the parties. The world would not be left in the difficult position of looking to the correct legal interpretation of a somewhat vague resolution, particularly when important States which have voted for its adoption in the United Nations thereafter assert that it has not created any binding obligations.

Until such a treaty is signed, it cannot be stated with certainty whether or not the victor in the race to the moon may claim territorial sovereignty over occupied areas.

ADDENDUM

Since the above article was written for *University: A Princeton Quarterly,* several things have occurred which warrant serious consideration.

On 23 September 1965 Ambassador Arthur J. Goldberg, addressing the United Nations, referred to the resolution sponsored seven years earlier by President (then Senator) Johnson on the use of outer space for peaceful purposes, and said:

[18] U.N. Doc. No. A/AC.105/C.2/SR.38, at 4 (1963).

> Since then the General Assembly has laid down valuable ground rules for activities in space and on celestial bodies. In accordance with these rules, our space activities have been, and will continue to be, nonaggressive, peaceful and beneficial in character.
>
> But these rules are not enough. Instruments from earth have already reached the moon and photographed Mars. And man will soon follow. Accordingly we suggest that the United Nations begin work on a comprehensive treaty on the exploration of the celestial bodies.[19]

On 31 January 1966 President Johnson submitted a Report to the Congress on "United States Aeronautics and Space Activities—1965." A chapter of the report dealing with the Department of State refers to an address by Ambassador Goldberg in the United Nations on 18 December and says: "Recalling his suggestion of September 23 that the United Nations begin work on a comprehensive treaty on the exploration of celestial bodies, he said that the United States plans to present a definite proposal as to the contents of such a treaty."[20]

On 3 February 1966 the Soviets soft-landed on the moon rocket Luna-9 which transmitted back radio and television signals. At a press conference held 10 February 1966, according to a Tass Moscow news release, the President of the Soviet Academy of Sciences is quoted as having said "that the Soviet Union does not claim ownership of that part of the territory of the moon where the automatic station soft-landed." Other news reports indicated that Luna-9 carried a Soviet pennant.

As stated in a Moscow dispatch of 1 March 1966 (quoted in The New York Times on 2 March 1966): "An unmanned spacecraft bearing an emblem with the Soviet hammer and sickle crashed onto the surface of the planet Venus today, the Soviet Union announced."[21]

These incidents indicate that the exploration of celestial bodies is no longer a "science-fiction" theory, but has become in fact a subject requiring present international decision.

On 7 May 1966 President Johnson issued a formal statement proposing a treaty on the peaceful exploration of the moon and other heavenly bodies, saying among other things:

> In my view we need a treaty laying down rules and procedures for the exploration of celestial bodies.

The full text of the President's statement appears on page 242 of this issue of the *Journal of Air Law and Commerce.*

J.C.C.

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[19] U.S. Delegation to the U.N., Press Release No. 4649, 23 Sept. 1965.

[20] REPORT TO THE CONGRESS FROM THE PRESIDENT—UNITED STATES AERONAUTICS AND SPACE ACTIVITIES 1965, chap. VI, pp. 75-76 (31 Jan. 1966).

[21] N.Y. Times, 2 Mar. 1966, p. 1, col. 4 (city ed.).